



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-825]

### **White Grape Juice Concentrate from Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that white grape juice concentrate (WGJC) from Argentina is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2021, through December 31, 2021. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Myrna Lobo or Jacob Saude, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2371 or (202) 482-0981, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on April 27, 2022.<sup>1</sup> On August 24, 2022, Commerce postponed the preliminary determination of this investigation until October 27, 2022.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Scope of the Investigation

The product covered by this investigation is white grape juice concentrate from Argentina. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.<sup>6</sup>

#### Methodology

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<sup>1</sup> *See White Grape Juice Concentrate from Argentina: Initiation of Less-Than-Fair-Value Investigation*, 87 FR 24934 (April 27, 2022) (*Initiation Notice*).

<sup>2</sup> *See White Grape Juice Concentrate from Argentina: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 87 FR 51969 (August 24, 2022).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of White Grape Juice Concentrate from Argentina" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Initiation Notice*.

<sup>6</sup> Although Commerce received comments within this deadline from Delano Growers Grape Products, LLC (the petitioner), these comments did not relate to the scope language published in the *Initiation Notice*. *See* Petitioner's Letter, "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated May 24, 2022.

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

#### All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero or *de minimis*, or that are determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Cepas Argentinas S.A. (Cepas) and Federacion de Cooperativas Vitivincolas Argentinas Coop. Ltda. (Fecovita), the two mandatory respondents, that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.<sup>7</sup>

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<sup>7</sup> With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum, at Comment 1; *see also* Memorandum, "Calculation of the All-Others Rate for the Preliminary Determination," dated October 27, 2022.

## Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Producer/Exporter</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>	<b>Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent)<sup>1</sup></b>
Cepas Argentinas S.A.	12.21	8.50
Federacion de Cooperativas Vitivinícolas Argentinas Coop. Ltda <sup>2</sup>	27.17	23.77
All Others	19.43	15.88

<sup>1</sup> In the preliminary determination of the companion countervailing duty (CVD) proceeding, Commerce found that certain of the programs conferring a benefit to the two mandatory respondents, Cepas and Fecovita, were export contingent subsidies. In accordance with section 772(c)(1)(C) of the Act, we have preliminarily relied on the CVD rates of 3.71 and 3.40 percent (*i.e.*, the rates only related to export contingent subsidies) calculated for Cepas and Fecovita, respectively, as well as the CVD all others rate of 3.55 percent, for purposes of determining the preliminary antidumping duty cash deposit rate. *See White Grape Juice Concentrate from Argentina: Preliminary Affirmative Countervailing Duty Determination*, 87 FR 54455 (September 6, 2022), and accompanying calculation memoranda for Cepas, Fecovita, and all others.

<sup>2</sup> Fecovita is also known as “Fecovita Coop. Ltd.” *See* Memorandum, “Less-Than-Fair-Value Investigation of White Grape Juice Concentrate from Argentina: Respondent Selection,” dated June 7, 2022.

## Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of

export subsidies countervailed in a companion CVD proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the “Preliminary Determination” section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

#### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>8</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2)

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<sup>8</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>9</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 14 and 17, 2022, pursuant to 19 CFR 351.210(e), Fecovita and Cepas requested that Commerce postpone the final determination and that provisional measures be

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<sup>9</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

extended to a period not to exceed six months.<sup>10</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

#### U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c) and 19 CFR 351.210(g).

Dated: October 27, 2022.

**Lisa W. Wang,**

*Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>10</sup> See Fecovita's Letter, "Antidumping Duty Investigation of White Grape Juice Concentrate from Argentina: Request to Extend Final Determination," dated October 14, 2022; *see also* Cepas's Letter, "Antidumping Investigation of White Grape Juice Concentrate from Argentina: Request for Extension of Deadline for Final Determination, In Event of Affirmative Preliminary Determination," dated October 17, 2022.

## **Appendix I**

### **Scope of the Investigation**

The scope of this investigation covers white grape juice concentrate with a Brix level of 65 to 68, whether in frozen or non-frozen forms. White grape juice concentrate is concentrated grape juice produced from grapes of the *Vitis vinifera* L. species with a white flesh, including fresh market table grapes and raisin grapes (*e.g.*, Thompson Seedless), as well as several varieties of wine grapes (*e.g.*, Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, *etc.*). The scope of this investigation covers white grape juice concentrate regardless of whether it has been certified as kosher, organic, or organic kosher. The white grape juice concentrate subject to this investigation consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included.

The scope does not cover white grape juice concentrate produced from grapes of the *Vitis labrusca* species (*e.g.*, Niagara).

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2009.69.0040 and 2009.69.0060. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.



## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Scope Comments
- VI. Postponement of Final Determination and Extension of Provisional Measures
- VII. Affiliation
- VIII. Discussion of the Methodology
- IX. Currency Conversion
- X. Adjustments to Cash Deposit Rates for Export Subsidies in Companion Countervailing Duty Investigation
- XI. Recommendation

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